

RESOLUTION NO. 2007-219

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI APPROVING THE FORMS OF AN INSTALLMENT PURCHASE AGREEMENT, A CERTIFICATE PURCHASE CONTRACT, A PRELIMINARY OFFICIAL STATEMENT, A CONTINUING DISCLOSURE CERTIFICATE, AND AN ESCROW AGREEMENT RELATING TO WASTEWATER SYSTEM REVENUE CERTIFICATES OF PARTICIPATION, 2007 SERIES A; AND APPROVING AND AUTHORIZING CERTAIN OTHER MATTERS RELATING THERETO

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WHEREAS, the City of Lodi, a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City"), owns and operates a municipal wastewater system (the "System") to provide for the collection, treatment, and disposal of wastewater; and

WHEREAS, the Lodi Public Improvement Corporation (the "Corporation") is a nonprofit public benefit corporation formed for the purpose of assisting the City in financing capital improvements to the System; and

WHEREAS the City and the Corporation have entered into that certain Installment Sale Agreement, dated as of December 1, 1991, (the "1991 Prior Agreement") for the purpose of refinancing certain improvements to the System (the "Existing Facilities"); and

WHEREAS, the Corporation entered into that certain Trust Agreement, dated as of December 1, 1991, (the "1991 Trust Agreement") with Bank of America National Trust and Savings Association pursuant to which there have been delivered Certificates of Participation (1991 Wastewater Treatment Plant Expansion Refunding Project) (the "1991 Certificates") evidencing the right to receive the installment payments to be made by the City under the 1991 Prior Agreement; and

WHEREAS, the City proposes to refund the outstanding 1991 Certificates by making a prepayment of the remaining installment payments under the 1991 Prior Agreement, which is to be applied to the redemption of the outstanding 1991 Certificates; and

WHEREAS, the City proposes to make certain additions, betterments, extensions, replacements, and improvements to the System (the "Project"); and

WHEREAS, the Corporation has agreed to assist the City by: (i) acquiring the Existing Facilities and selling the Existing Facilities to the City, and (ii) acquiring or causing the acquisition of the Project and selling the Project to the City, in each case pursuant to the terms of an Installment Purchase Agreement (the "Installment Purchase Agreement"); and

WHEREAS, pursuant to the Installment Purchase Agreement, the City will be obligated to make installment payments (the "Installment Payments") to the Corporation as the purchase price of the Existing Facilities and the Project; and

WHEREAS, the Corporation will assign certain of its rights under the Installment Purchase Agreement, including its rights to receive the Installment Payments, to The Bank of New York Trust Company, N.A. (the "Trustee") pursuant to a Trust Agreement (the "Trust Agreement") between the Corporation and the Trustee; and

WHEREAS, pursuant to the Trust Agreement, the Trustee is to execute and deliver Wastewater System Revenue Certificates of Participation, 2007 Series A (the "Certificates"), evidencing a proportionate ownership interest in the Installment Payments; and

WHEREAS, pursuant to the Trust Agreement, the Trustee will establish and hold a reserve fund in an amount equal to the reserve fund requirement; and

WHEREAS, the City wishes to initially satisfy the reserve fund requirement with a debt service reserve fund insurance policy (the "Reserve Policy") to be provided by Financial Assurance Inc. ("FSA"); and

WHEREAS, the City has determined to provide for the redemption of the 1991 Certificates by entering into an Escrow Deposit and Trust Agreement (the "Escrow Agreement") with U.S. Bank National Association (the "Escrow Bank"); and

WHEREAS, a portion of the sale of the Certificates is to be applied, among other things, to the costs of the Project as provided in the Trust Agreement; and

WHEREAS, a portion of the sale of the Certificates is to be applied to the prepayment of the City's obligations to make installment payments under the 1991 Prior Agreement; and

WHEREAS, a portion of the sale of the Certificates is to be applied to pay the premiums for the Reserve Policy; and

WHEREAS, the City proposes to prepare and distribute a Preliminary Official Statement and a final Official Statement in connection with the offer and sale of the Certificates; and

WHEREAS, the City proposes to execute and deliver a Certificate Purchase Contract (the "Certificate Purchase Contract") with Stone & Youngberg LLC (on behalf of itself and Bear Stearns, together the "Underwriters"), pursuant to which the Underwriters will purchase the Certificates for reoffering to the public; and

WHEREAS, the California Statewide Communities Development Authority (the "Authority") had assigned its rights to receive Installment Payments under the Installment Purchase Agreement (the "2003 Agreement") to Union Bank of California, N.A., as Trustee (the "2003 Trustee") and executed and delivered its Water and Wastewater Revenue Bonds (Pooled Financing Program) Series 20038, under a certain indenture, dated as of October 1, 2003, between the Authority and the 2003 Trustee, which was secured in part by the Installment Payments; and

WHEREAS, the City wishes the Authority to amend the 2003 Agreement so that the definition of the term "Operation and Maintenance Costs" contained in the 2003 Agreement (as it relates to the City) be amended to match the definition of the same term in the Trust Agreement; and

WHEREAS, there have been executed and delivered Wastewater System Revenue Certificates of Participation, 2004 Series A, under a certain Trust Agreement (the "2004 Trust Agreement"), dated as of May 1, 2004, between the Corporation and Union Bank of California, NA (the "2004 Trust Agreement Trustee"); and

WHEREAS, the City wishes the Corporation and the 2004 Trust Agreement Trustee to enter into a supplemental trust agreement amending the definition of the term "Operation and Maintenance Costs" contained in the 2004 Trust Agreement to match the definition of such term in the Trust Agreement; and

WHEREAS, all acts, conditions, and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form, and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. The City Council hereby specifically finds and determines that the actions authorized hereby constitute and are with respect to the public affairs of the City and that the statements, findings, and determinations of the City set forth above and in the preambles of the documents approved herein are true and correct and that the consummation of the transactions contemplated therein shall result in significant public benefits to the City in that the City expects to improve the efficient operation of the City's System through the refinancing of the Existing Facilities and the financing of the Project as provided in the Installment Purchase Agreement and the Trust Agreement.

Section 2. The Installment Purchase Agreement, in the form presented at this meeting and on file with the City Clerk, and the performance by the City of its obligations thereunder, are hereby approved, and the City Manager, the Deputy City Manager, and the Public Works Director, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Corporation the Installment Purchase Agreement in substantially said form, with such changes therein as the officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, that the principal component of the Installment Payments set forth in Exhibit B to the Installment Purchase Agreement shall not exceed Thirty-Five Million Dollars (\$35,000,000); provided further that the interest components on the principal components of the Installment Payments set forth in Exhibit B to the Installment Purchase Agreement shall not exceed such rate or rates that the true interest cost with respect to the Certificates is greater than five and one half percent (5.50%); and provided further that no Installment Payment shall be scheduled for payment later than 35 years from the date of initial delivery of the Certificates.

Section 3. The Escrow Agreement, proposed to be executed and entered into by the City and the Escrow Bank, in the form presented at this meeting and on file with the City Clerk, and the performance by the City of its obligations thereunder, are hereby approved, and the City Manager, the Deputy City Manager, and the Public Works Director, each acting singly, are hereby authorized and directed for and in the name and on behalf of the City to execute and deliver the Escrow Agreement in substantially said form, with such changes therein as the officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. The Certificate Purchase Contract, proposed to be executed and entered into by and between the City and Stone & Youngberg LLC, on behalf of the Underwriters, in the form presented at this meeting and on file with the City Clerk, and the performance by the City of its obligations thereunder, are hereby approved, and the City Manager, the Deputy City Manager, and the Public Works Director, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Underwriters the Certificate Purchase Contract in substantially said form, with such changes therein as the officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided that the Underwriters' discount in connection with the sale of the Certificates shall not exceed ninety-five hundredths (.95) of one percent of the principal components of the Installment Payments evidenced by the Certificates.

Section 5. The Preliminary Official Statement, in the form presented at this meeting and on file with the City Clerk, is hereby approved. The City Manager, the Deputy City Manager, and the Public Works Director, each acting singly, are hereby authorized and directed to cause the Preliminary Official Statement to be distributed to potential purchasers of the Certificates in substantially the form presented to this meeting with such changes therein as the officer deeming the Preliminary Official Statement final for purposes of Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12") may approve, such approval to be conclusively evidenced by such officer deeming the Preliminary Official Statement final for purposes of Rule 15c2-12. The City Manager, the Deputy City Manager, and the Public Works Director, each acting singly, are hereby authorized and directed to deem the Preliminary Official Statement final for purposes of Rule 15c2-12 except for such information as may be omitted from the Preliminary Official Statement under Rule 15c2-12.

Section 6. The preparation and delivery of a final Official **Statement**, and **its use** by the Underwriters, in connection with the offering and sale of the Certificates are hereby approved. The Official Statement shall be substantially in the form of the Preliminary Official Statement deemed final for purposes of Rule 15c2-12 pursuant to Section 5 of this Resolution, with such changes as the officer executing the Official Statement may approve, such approval to be conclusively evidenced by such officer's execution and delivery thereof. The City Manager, the Deputy City Manager, and the Public Works Director, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Official Statement and any amendment or supplement thereto contemplated by the Certificate Purchase Contract, in the name and on behalf of the City, and thereupon to cause the final Official Statement and any such amendment or supplement to be delivered to the Underwriters.

Section 7. The Continuing Disclosure Certificate, proposed to be executed and entered into by the City and the Trustee, in the form presented at this meeting and on file with the City Clerk, and the performance by the City of its obligations thereunder, are hereby approved, and the City Manager, the Deputy City Manager, and the Public Works Director, each acting singly, are hereby authorized and directed for and in the name and on behalf of the City to execute and deliver the Continuing Disclosure Certificate in substantially said form, with such changes therein as the officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 8. The City Clerk is hereby authorized and directed to attest the signature of the City Manager, the Deputy City Manager, and the Public Works Director and to affix and attest the seal of the City, as may be required or appropriate, in connection with the execution and delivery of the Certificates and the documents approved by this Resolution.

Section 9. The City hereby authorizes and directs that the definition of Operation and Maintenance Costs in the 2003 Agreement (as it relates to the City) and the 2004 Trust Agreement be amended to match the definition of the same term in the Trust Agreement.

Section 10. The City Manager, the Deputy City Manager, and the Public Works Director, each acting singly, are hereby authorized and directed, for and in the name of the City, to procure the Reserve Policy from FSA with the premium for the Reserve Policy to be paid from the proceeds of the sale of the Certificates; provided, however, that such premium shall not exceed one and one half percent (1.5%) of the reserve fund requirement.

Section 11. Each officer of the City is hereby authorized and directed, acting singly, to do any and all things (including the negotiating and obtaining of a municipal bond insurance policy with respect to the Certificates if the City Manager, the Deputy City Manager, or the Public Works Director determines that such insurance policy is expected to result in savings to the City) and to execute and deliver any and all documents which such officer may deem necessary or desirable in order to consummate **the transactions authorized hereby and to consummate the sale, execution and delivery of the Certificates and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Installment Purchase Agreement, the Certificate Purchase Contract, the Preliminary Official Statement, the Official Statement and the Certificates:** and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 12. This Resolution shall take effect immediately upon its passage.

Dated: November 7, 2007

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I hereby certify that Resolution No. 2007-219 was passed and adopted by the Lodi City Council in a regular meeting held November 7, 2007, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Mounce, and
Mayor Johnson

NOES: COUNCIL MEMBERS – Hitchcock

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


JENNIFER M. PERRIN
Deputy City Clerk

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